

*B2*  
wherein the first polynucleotide encodes an immunogenic fragment of said mutated LF protein, said [a] polypeptide comprising a sequence which is at least 90% identical to a sequence extending from amino acid 9 through amino acid 252 of the sequence set forth in SEQ ID NO. 2.

*B3*  
Please add the following claims

43. (New) The nucleic acid based immunogenic composition of claim 31 wherein the polypeptide comprises a sequence which is identical to SEQ ID NO. 2.

44. (New) The nucleic acid based immunogenic composition of claim 31 wherein the polypeptide comprises a sequence which is less than 100% identical to a sequence extending from amino acid 9 through amino acid 252 of the sequence set forth in SEQ ID NO. 2.

#### REMARKS

Claims 23-42 are pending in the application. By the present amendment claims 23 and 31 are amended and new claims 43 and 44 are hereby added. Support for the amendment of claims 23 and 31 and new claims 43 and 44 is found on page 6, lines 23-31 of the specification. The amendments and new claim add no new matter. A document entitled "VERSION WITH MARKINGS TO SHOW CHANGES MADE" showing the additions as underlined and the deletions in brackets is attached hereto.

Claims 23-42 are subject to an election of species requirement. The Patent Office stated:

The application contains claims directed to the following patentably distinct species of the claimed invention. The species is recited in claims 25, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, and 40.....

Currently, 23....are generic.

Upon allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. (emphasis added)

Applicants hereby elect the species of claim 31 and new claims 43 and 44 which depend therefrom.

If the Examiner has any questions regarding the election, she is invited to contact the undersigned at the telephone number listed below. As stated in the Declaration and Power of

Attorney that was filed with the present case (See page 2 of the Declaration), Applicants respectfully request that all written communications for this case be sent to

Pamela A. Docherty  
CALFEE, HALTER & GRISWOLD, LLP  
1400 McDonald Investment Center  
800 Superior Avenue  
Cleveland, Ohio 44114

Please note that all previous Office communications have been sent to the Naval Medical Research Center, an action which has delayed receipt of the Office communications by the undersigned.

Respectfully submitted,

Date: March 22, 2002

By: Pamela A. Docherty  
Pamela A. Docherty, Reg. No. 40,591  
(216) 622-8416

VERSION WITH MARKINGS TO SHOW CHANGES MADE

23. (Twice Amended) A nucleic-acid based immunogenic composition for preparing a vaccine which protects a subject against lethal infection with *B. anthracis*, said immunogenic composition comprising a first polynucleotide which encodes a mutated lethal factor (LF) protein or immunogenic fragment of said mutated LF protein, said first polynucleotide being operably linked to a promoter which drives expression of the the mutated LF protein or immunogenic fragment of said mutated LF protein; and a pharmaceutically acceptable carrier or diluent.

31. (Once amended) The nucleic-acid based immunogenic composition of claim 23 wherein the first polynucleotide encodes an immunogenic fragment of said mutated LF protein, said [a] polypeptide comprising a sequence which is at least 90% identical to a sequence extending from amino acid 9 through amino acid 252 of the sequence set forth in SEQ ID NO. 2.